

KAREN BRINKMANN PLLC
TELECOM, MEDIA & TECHNOLOGY LAW

555 ELEVENTH STREET, NW
MAIL STATION 07
WASHINGTON, D.C. 20004-1304
(202) 365-0325
KB@KarenBrinkmann.com

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BY ELECTRONIC FILING

Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, D.C. 20554

Re: *Connect America Fund, Lifeline and Link Up, et al.*, CC Docket
Nos. 96-45 and 01-92, WC Docket Nos. 03-109, 05-337, 07-135
and 10-90, WT Docket No. 10-208, and GN Docket No. 09- 51 -
Ex Parte Notice

Dear Ms. Dortch:

On Wednesday, December 7, 2011, Leonard Steinberg of Alaska Communications Systems Group, Inc., on behalf of its operating subsidiaries (“ACS”) and I met with Angela Kronenberg in the office of Commissioner Clyburn, Christine Kurth in the office of Commissioner McDowell, and Amy Bender, Joseph Cavender, Trent Harkrader, Kimberly Scardino, and Jamie Susskind in the Commission’s Wireline Competition Bureau. The subject of these meetings were the changes to federal high-cost support programs adopted in the recent Connect America Fund (“CAF”) Order¹ and

¹ *Connect America Fund; A National Broadband Plan for Our Future; Establishing Just and Reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support; Developing a Unified Intercarrier Compensation Regime; Federal-State Joint Board on Universal Service; Lifeline and Link-Up; Universal Service Reform – Mobility Fund*, Report & Order and Further Notice of Proposed Rulemaking, FCC 11-161 (rel. Nov. 18, 2011), 76 Fed. Reg. 73830 (Nov. 29, 2011) (the “CAF Order” and the “Further NPRM”).

additional changes to low-income support programs proposed in the Commission's pending Lifeline NPRM.²

In these meetings, ACS noted that it is still calculating the impact of the CAF Order on the company's infrastructure investment budget for the coming year, but it believes the CAF Order will result in a net revenue decrease for ACS, and ultimately may result in *decreased* infrastructure investment in Alaska, unless the Commission modifies or waives some of its rules.

Questions Concerning CAF Phase I Incremental High-Cost Support

ACS observed that, even if incremental support is made available to the ACS local exchange carriers ("LECs") in 2012 through the Phase I CAF mechanism, which may not be announced before the end of March 2012, ACS is uncertain about its ability to meet aggressive build-out deadlines adopted in the CAF Order, and thus is uncertain whether it will accept all or any of that support.³ One significant constraint, which affects the ACS LECs more than any other price cap carriers, is the significantly foreshortened Alaska construction season. Even if ACS were able by second quarter 2012 to make a determination how much incremental CAF Phase I support to accept, there still would remain a significant amount of network engineering, ordering of materials, and other work to be completed by ACS before construction could begin; thus any broadband deployment using Phase I CAF incremental support would not likely *begin* until second quarter 2013, *at the earliest*. The effect would be to force ACS to complete construction in two years rather than three, and to complete two-thirds of the required build-out in a single year – a distinct disadvantage compared to price cap LECs in the Lower 48 states.

In addition, because the Commission requires that incremental funding made available through CAF Phase I be used to deploy broadband at 4 Mbps downstream/1 Mbps upstream⁴ to at least one unserved location for every \$775 in support,⁵ and be targeted to wire centers and census block areas that neither have access

² *Lifeline and Link Up Reform and Modernization; Federal-State Joint Board on Universal Service; Lifeline and Link Up*, WC Docket Nos. 11-42 and 03-109, CC Docket No. 96-45, Notice of Proposed Rulemaking, 26 FCC Rcd 2770 (2011) (the "Lifeline NPRM").

³ CAF Order ¶147 (requiring that build-out be completed within three years after the LEC files a notice of acceptance, and that two-thirds of required build-out be completed within two years).

⁴ CAF Order ¶147.

⁵ CAF Order ¶138.

to fixed broadband nor are included on the LEC's capital improvement plan,⁶ ACS is concerned that it will not be able to identify whether it can meet all of these criteria – and thus make a reasoned decision whether to accept some or all of the funding and the attendant obligations – within the 90-day window described in the CAF Order.⁷

Factoring In the Cost of Backhaul To the Total Cost of Deploying Networks Capable of Delivering Broadband and Voice Service Using CAF II Support

In the CAF Order, the Commission adopts a budget for Phase II CAF support intended to ensure that broadband can be deployed to 100 percent of unserved locations within five years, except for locations where the cost to deploy broadband is predicted (by the Commission's yet-to-be-developed model) below a certain high-cost threshold, which the Commission assumes the market will reach, and except for locations that are above an "extremely high-cost" threshold, which the Commission commits to a different solution (which will not include deployment to 100 percent of unserved locations) via the Remote Areas Fund.⁸ As ACS tries to anticipate in what unserved areas it will be able to provide broadband service meeting the FCC's performance criteria, should CAF II support be available under the model, a critical question is how the Commission will treat the cost of backhaul capacity.

ACS and other Alaska carriers have commented repeatedly in these proceedings on the high cost and limited availability in Alaska of fiber-based terrestrial backhaul suitable for services that meet the FCC's performance requirements for broadband. ACS has provided extensive comments on the geography and demographics of the state, and explained the limited facilities that historically have been available to connect remote communities around the state to aggregation points in Anchorage, and facilities leading to the rest of the country and overseas destinations. ACS thus must factor in the significant cost of satellite backhaul in considering whether funding will be sufficient to provide broadband in any particular location. ACS intends to offer suggestions in the Further NPRM about including appropriate inputs for satellite backhaul in the Commission's calculation of CAF II support. However, ACS also hopes the Commission will clarify whether the cost of backhaul is included in its "extremely high-cost" threshold.

⁶ CAF Order ¶146.

⁷ CAF Order ¶148 ("Within 90 days of the beginning of each term of support, carriers must provide notice to the Commission, the relevant state commission, and any affected Tribal government, identifying the amount of support it wishes to accept and the areas by wire center and census block in which the carrier intends to deploy broadband").

⁸ CAF Order ¶168.

Availability of High-Cost Support To Purchasers of Exchanges

Under Sections 54.305(b) and 61.41(e) of the FCC's rules, when price cap LECs have been permitted to divest rural exchanges to rate-of-return carriers, the purchaser had a one-time right to convert the acquired exchanges back to rate-of-return regulation, provided that the purchaser only would be entitled to receive the same amount of high-cost support to which the seller had been entitled. In the CAF Order, the Commission added two provisions to this rule that cause ACS to question whether a price cap LEC may divest exchanges in the future, and if so, how the acquiring carrier would know what support it could hope to receive. The new language in Section 54.305(a) states:

After December 31, 2011, the provisions of this section shall not be used to determine support for any price cap incumbent local exchange carrier or a rate-of-return carrier, as that term is defined in §54.5 of this chapter, that is affiliated with a price cap incumbent local exchange carrier.

Section 54.305(b) is modified with this new language:

Beginning January 1, 2012, any carrier subject to the provisions of this paragraph shall receive support pursuant to this paragraph or support based on the actual costs of the acquired exchanges, whichever is less.

ACS seeks guidance from the Commission whether Section 54.305 continues to permit that a rate-of-return carrier that acquires rural exchanges from a price cap carrier, and converts them to rate-of-return regulation pursuant to Section 61.41(e) of the Commission's rules, may receive support based on the price cap carrier's support prior to the sale as provided in Section 54.305(b).

Concerns About Continued Requirements To Use Part 32 USOA In Lieu of GAAP

Another question raised by ACS concerns the continue application of dual accounting systems to incumbent LECs. ACS observed that price cap regulation and frozen high-cost support for some years now have diminished the Commission's reliance on the Uniform System of Accounts ("USOA") and so-called regulated books of account for incumbent LECs, and the reforms embodied in the CAF Order have put further distance between the Part 32 rules and federal and state rate regulation. ACS, like many LECs, is a publicly-traded company and must not only comply with Generally Accepted Accounting Principles ("GAA") but also undergo an independent audit annually. ACS believes the Commission would sacrifice nothing in regulatory oversight, but the LEC would realize significant cost savings, if ACS were permitted to follow only GAAP, and were relieved of the USOA regulations. Moreover, ACS believes that this change would immediately stimulate additional capital investment in broadband networks, because the USOA rules mandate that a significant percentage of LEC investment be classified as

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capital expenditures that under GAAP could be classified as operating expenses. In short, ACS believes that regulations requiring maintenance of dual accounting systems fail to serve the FCC's goal of stimulating infrastructure investment as efficiently as possible.

Concerns About Changes To the Lifeline Program

Finally, ACS expressed its support for the value to Alaska consumers of the Lifeline program, and urged that the Commission permit such support to be used so that every adult in a household may have one device – whether fixed or mobile – as a matter of public safety. ACS will attempt to calculate the cost of such a policy as applied to Alaska, but believes that it is a reasonable expense to incur to ensure consumer safety, especially in Alaska where roads are few and conditions are harsh. To the extent that the budget for this program would limit the number of locations where such a rule could be implemented, ACS recommends that this be the rule – at a minimum – in Remote Areas of Alaska, as defined in the CAF Order, where low-income consumers are least likely to have alternative access to emergency calling and other essential communications.⁹

ACS also urged that the Commission take care not to make customer certification of Lifeline eligibility so onerous that qualified customers will be driven away from the program, or so burdensome to service providers that they will have little incentive to promote the adoption of the service. ACS offered to provide additional information on customer certification in Alaska, which ACS will file in the relevant dockets.

Please direct any questions regarding these matters to me.

Very truly yours,

/s/
Karen Brinkmann
Counsel to ACS

cc: Zachary Katz
Angela Kronenberg
Christine Kurth
Sharon Gillett
Carol Matthey
Amy Bender
Joseph Cavender
Trent Harkrader
Kimberly Scardino
Jamie Susskind

⁹ CAF Order ¶529 & n. 876.